

The Gazette of India

EXTRAORDINARY

PART II—Section 2

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LOK SABHA

The following Bills were introduced in Lok Sabha on the 2nd May, 1958:—

BILL No. 29 OF 1958

A Bill further to amend the Prevention of Corruption Act, 1947.

BE it enacted by Parliament in the Ninth Year of the Republic of India as follows:—

1. This Act may be called the Prevention of Corruption (Amendment) Act, 19 .

Short title.

2 of 1947.

5

2. Section 6 of the Prevention of Corruption Act, 1947 shall be omitted.

Omission of section 6.

STATEMENT OF OBJECTS AND REASONS

Section 6 of the Prevention of Corruption Act, 1947, debars criminal courts to take cognizance of cases under section 161 or section 164 or section 165 of the Indian Penal Code, 1860 without the previous sanction from the appointing authority for the prosecution of the accused. This section is proving a great hurdle in prosecuting corrupt officers and the whole purpose of the Act is thus defeated. Section 197 of the Code of Criminal Procedure, 1898 is enough safeguard to guarantee freedom of action for an officer to discharge his official duties. Under the Prevention of Corruption Act, 1947 offences under section 165A of the Indian Penal Code, 1860 have been made cognizable. This being so the investigating officer should be trusted to launch the prosecution. A private person who, under circumstances beyond his control, is compelled to pay bribes which are more often extracted than given, should have the unhindered right to file complaint.

Hence this Bill.

NEW DELHI;
The 3rd March, 1958.

SINHASAN SINGH.

BILL No. 30 OF 1958

A Bill further to amend the Code Criminal Procedure, 1898.

BE it enacted by Parliament in the Ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Code of Criminal Procedure (Amendment) Act, 19 . Short title
and com-
mencement.

5 (2) It shall come into force at once.

V of 1898. 2. In section 198 of the Code of Criminal Procedure, 1898, the following proviso shall be added, namely:— Amendment
of section
198.

10 “Provided further that this section shall not apply to a case where a husband marries a second time in the life time of the first wife which has been prohibited under section 17 of the Hindu Marriage Act, 1955.”

25 of 1955.

STATEMENT OF OBJECTS AND REASONS

Section 198 of the Code of Criminal Procedure, 1898 provides that no court shall take cognizance of offences under sections 493 to 496 (both inclusive) unless there be complaints by the person affected or some other person on his or her behalf as the case may be with the prior sanction of the court. This section should have been amended in view of the recent enactment of the Hindu Marriage Act, 1955 which prohibits polygamous marriages. Section 17 of the said Act makes a second marriage in the life time of the one existing an offence under section 494 of Indian Penal Code. Such being the intention of Law, it can be made effective only if any person interested in public affairs and social reforms is authorised to move a court of law to check infringement of Laws.

Hence this Bill.

NEW DELHI;

SINHASAN SINGH

The 3rd March, 1958.

BILL No. 37 OF 1958

A Bill further to amend the Code of Criminal Procedure, 1898.

Be it enacted by Parliament in the Ninth year of the Republic of India as follows:—

1. (1) This Act may be called the Code of Criminal Procedure (Amendment) Act, 1958. Short title, commencement and application.

5 (2) It shall come into force atonce, and shall apply retrospectively to cases pending in courts at the commencement of the Act.

▼ of 1898.

2. In Schedule II to the Code of Criminal Procedure, 1898, in the entry relating to section 379 in the 6th column for the words "compoundable when the value of the property does not exceed two hundred and fifty rupees and permission is given by the Court before which the prosecution is pending" the following shall be substituted, namely:— Amendment of Schedule II.

15 "Not compoundable except in case of land dispute when the value of the property does not exceed two hundred and fifty rupees and the permission is given by the Court before which the prosecution is pending."

STATEMENT OF OBJECTS AND REASONS

By recent amendment of Code of Criminal Procedure 1898, the offence of theft (Section 379 of Indian Penal Code) where the value of the stolen goods does not exceed two hundred and fifty rupees has been made compoundable with the result that even anti-social elements with many previous convictions have been able to get their cases compounded which should not be allowed to be done in the best interest of the society.

Moreover, the offence relating to dishonestly stolen goods (Section 411 of the Indian Penal Code) is not compoundable. This is an anomalous position. Hence this Bill.

NEW DELHI;

SUBIMAN GHOSE.

The 7th March, 1958.

BILL No. 43 OF 1958

A Bill further to amend the Hindu Succession Act, 1956.

BE it enacted by Parliament in the Ninth Year of the Republic of India as follows:—

1. (i) This Act may be called the Hindu Succession (Amendment) Act, 1956. Short title, extent and commencement.

5 (ii) It extends to the whole of India except the state of Jammu and Kashmir.

(iii) It shall come into force on such date as the President may by notification in the official Gazette appoint in this behalf.

2. In sub-section (1) of section 14 of the Hindu Succession Act, 1956, the following provisos shall be inserted, namely:— Amendment of section 14.

15 “Provided that where a man has, before the commencement of this Act, died intestate leaving a widow or widows and other female heirs mentioned in class I of the Schedule, the widow and the other female heirs shall take the property absolutely in accordance with the provision of section 10.”

“Provided further that any alienation made by the widow without consideration after the commencement of this Act, shall be void to the extent of any share in excess of that prescribed in the proviso above.”

STATEMENT OF OBJECTS AND REASONS

The Hindu Succession Act, 1956 has resulted in unforeseen injustice to female heirs, namely daughter. Before the passing of that Act, when a man died intestate leaving a widow and a daughter, the widow got a life interest in the property and the daughter would succeed to his estate on the death of the widow. Now under the Hindu Succession Act, 1956 both the widow and the daughter would succeed to this estate, and each would take half a share. But section 14 provides that any property possessed by a female Hindu, whether acquired before or after the commencement of this Act, shall be held by her as full owner. The female Hindu thus acquires an absolute interest in the property possessed by her, and the widow has the power to gift or transfer the property to whomsoever she likes. The natural tendency of a widow would be to defeat the interest of her step daughter by gifting the entire estate of the deceased in favour of her own brother or sister.

2. Section 10 of the Act assigns to the daughter a status even superior to that of the widow. This Bill does not inflict any hardship on the widow. Its object is to rectify the unintended effect of the wording of section 14 of the Act.

Hence the Bill.

NEW DELHI;

P. SUBBIAH AMBALAM.

The 10th March, 1958.

BILL No. 38 OF 1958

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 19

Short title,
extent and
commence-
ment

5 (2) It extends to the whole of India.

(3) It shall come into force at once.

2. Article 143 of the Constitution shall be omitted.

Omission of
article 143.

STATEMENT OF OBJECTS AND REASONS

Article 143 of the Constitution of India has been inserted presumably to aid the President in arriving at decisions on complicated questions of fact or law. There is adequate machinery of law officers in the Administration to give opinion on all such issues, and it is not desirable to invite the Supreme Court to prejudge certain issues. It is desirable that this provision should be deleted. The Bill seeks to do this.

NEW DELHI;

NAUSHIR BHARUCHA.

The 19th March, 1958.

BILL No. 52 OF 1958

A Bill to provide for abolition of the system of employing casual labour in the employment of permanent character.

BE It enacted by Parliament in the Ninth Year of the Republic of India as follows:—

1. (i) This Act may be called the Abolition of Employment of Casual Labour Act, 19

Short title,
extent and
commence-
ment.

5 (ii) It extends to the whole of India.

(iii) It shall come into force at once.

2. In this Act, unless there is anything repugnant in the subject or context,—

Definitions.

10 (i) "casual worker" means any worker who is neither a permanent nor a regular temporary worker.

14 of 1957.

(ii) "Industry" has the meaning assigned to it in Industrial Disputes Act, 1947.

(iii) "permanent worker" means any worker who has been employed for a period extending beyond three months.

15 3. Save as otherwise expressly provided in this Act, no Industry shall employ any casual worker in any permanent employment.

Employment
of casual
worker.

4. Any casual worker, who shall complete three months' service on the date this Act comes into operation, shall be considered as a permanent worker.

Permanent
worker.

STATEMENT OF OBJECTS AND REASONS

A large number of workmen are in employment of various industries as casual workers. Even in the works of permanent nature, which are continuing for a decade, hundreds of workers are employed as casual labourers with breaks in their services before they attain the status of permanent workers. This is done with the purpose of depriving the workers of the benefits of permanent workers. This is worst type of exploitation. The object of the Bill is to stop this practice. Hence the Bill.

NEW DELHI;
The 21st March, 1958.

AUROBINDO GHOSAL.

BILL No. 51 OF 1958

A Bill to abolish the system of supply of labour through a middleman or a contractor.

BE it enacted by Parliament in the Ninth Year of the Republic of India as follows :—

1. (i) This Act may be called the Abolition of Supply of Labour Through Contractors Act, 19 .

Short title,
extent and
commence-
ment.

5 (ii) It extends to the whole of India.

(iii) It shall come into force at once.

2. In this Act, unless there is anything repugnant in the subject or context,—

14 of 1957. 10 (a) 'industry' has the meaning assigned to it in the Industrial Disputes Act, 1947;

(b) 'contractor' means any person who supplies labour to any industry on remuneration or acts as a middleman through whom payments are made to the workers;

15 (c) 'contract workman' means any person who is not a direct employee of any industry but is employed through a contractor.

3. Save as otherwise expressly provided in the act,—

(i) no industry shall employ any workman through any contractor or middleman for any type of work casual, temporary or permanent; and

Prohibition
of employ-
ment of
workers
through
contractors.

(ii) no person shall supply any labour to any industry as a contractor and shall work as a middleman between the employers and the workmen.

Penalty.

4. If any person is found to act contrary to the provisions of section 3, he or the manager in case of the company, shall be punishable with six months rigorous imprisonment or with a fine of one thousand rupees or with both.

Contract workmen to be considered as direct employees of the industries.

5. All the workmen who had been under contractors or middlemen shall, on the date this Act comes into operation, be considered as direct employees of the industries concerned.

10

Power to make rules.

6. All rules to carry out the purposes of this Act shall be made by the Central Government and shall be laid for not less than thirty days before each House of Parliament.

STATEMENT OF OBJECTS AND REASONS

In order to avoid the payment of legal benefits that have accrued to the workmen through different labour legislations, the employers have resorted to the tactics of employing labour through a middleman or a contractor. This is one of the worst types of exploitation of the working class and a huge amount of money which the workers could have received in the shape of wages is pocketed by the middleman. The object of this Bill is to put an end to this sort of practice. Hence this Bill.

AUROBINDO GHOSAL.

NEW DELHI;
The 21st March, 1958.

MEMORANDUM REGARDING DELEGATED LEGISLATION

In Clause 6, it is proposed to delegate powers to the Government to make rules. The delegation of legislative power to Government proposed is of a normal character.

BILL NO. 58 OF 1958

A Bill further to amend the Industrial Disputes Act, 1947.

BE it enacted by Parliament in the Ninth Year of the Republic of India as follows:—

1. (i) This Act may be called the Industrial Disputes (Amendment) Act, 19 .

Short title
extent and
commence-
ment.

5 (ii) It extends to the whole of India.

(iii) It shall come into force at once.

14 of 1947.

2. In clause (k) of section 2 of the Industrial Disputes Act, 1947, the following shall be added at the end namely:—

Amend-
ment of sec-
tion 2.

15 “whether the dispute is taken up by an individual worker
or a group of workers or workmen in general.”

STATEMENT OF OBJECTS AND REASONS

In cases of *J. Chowdhury Vs. M. C. Banerjee* and another (1951) 2 F.J.R., 218 and *Bilas Chandra Mitra Vs. Balmer Lawrie and Co.* (1953) F.J.R. 73 the Calcutta High Court has said that unless any dispute is taken up by any union or by the majority of workers of the establishment or trade concerned, it will not be considered as an industrial dispute and as such the said dispute will not come under the purview of the Industrial Disputes Act, 1947. About 75% of workers are not organised under any union and so the industrial disputes of the majority of the workers are being rejected by the tribunals on the ground that an individual dispute is not an industrial dispute and such disputes are rejected even at the initial stage on the above ground. Presumably Parliament had not intended to exclude individual's disputes from the purview of the Industrial Disputes Act, 1947. The object of this Bill is to clarify the definition of the term 'industrial disputes' so as to remove the hardship of the unorganised.

AUROBINDO GHOSAL.

NEW DELHI;

The 21st March, 1958.

BILL No. 53 OF 1958

A Bill further to amend the Indian Trusts Act, 1882.

BE it enacted by Parliament in the Ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Indian Trusts (Amendment) Act, 19 . Short title,
and com-
mencement.

5 (2) It shall come into force at once.

2 of 1882

2. In section 19 of the Indian Trusts Act, 1882 (hereinafter referred to as the Principal Act) for the words "at the request of the beneficiary, to furnish him" the words "to furnish beneficiary and principal civil court of original jurisdiction" shall be substituted. Amendment
of Section
19.

10 3. After Clause '(f)' of Section 23 of the Principal Act, the following new clause shall be added namely:— Amendment
of section
23.

15 "(g) Where the breach consists in failure of fulfilment of the purpose of the Trust within reasonable period, he is liable to be sued by beneficiary in the principal civil court of original jurisdiction for removal from the office of the Trustee."

4. In Section 51 of the principal Act, for the word "may", the word "shall" shall be substituted. Amendment
of section
51.

STATEMENT OF OBJECTS AND REASONS

Under the present Act the beneficiary cannot sue the trustee for removal if he commits breach of trust or does not fulfil the purpose of the Trust. Nor is he bound to submit accounts to the beneficiary and principal court of original jurisdiction.

2. Therefore the purpose of the present bill is to give this right to the beneficiary, so that the trustee may be sued for breach of trust and for non-fulfilment of the purpose of the Trust.

NEW DELHI;
The 24th March, 1958.

RAM KRISHAN.

BILL No. 54 OF 1958

A Bill further to amend the Hindu Succession Act, 1956.

BE it enacted by Parliament in the Ninth Year of the Republic of India as follows:—

1. This Act may be called the Hindu Succession (Amendment) Short title.
Act, 19 .

30 of 1956. 5 2. In sub-section (1) of Section 30 of Hindu Succession Act, Amendment
1956,— of section 30.

(a) after the words “testamentary disposition”, the words
“or by transfer inter vivos” shall be inserted.

10 (b) after the words “or any other law”, the words “or
customary law” shall be inserted.

(c) in the *explanation*, after the words “in a Mitakshara
coparcenary property”, the words “or the male proprietor
under the customary law of the Punjab” shall be inserted.

STATEMENT OF OBJECTS AND REASONS

Under customary law of the Punjab and elsewhere, a male full owner succeeds as a restricted owner to ancestral properties if there are agnates in existence within five degrees of the last male owner. They consequently can challenge his alienations. Section 14 of the Hindu Succession Act, 1956 confers full ownership on the female Hindu over any property possessed by her. The object of the Bill is to put male and female owners at par.

Hence this Bill.

NEW DELHI;

HEM RAJ.

The 31st March, 1958.

BILL No. 50 OF 1958

A Bill further to amend the Minimum Wages Act, 1948.

BE It enacted by Parliament in the Ninth Year of the Republic of India as follows:—

1. This Act may be called the Minimum Wages (Amendment) Short title.
Act, 19

5 2. In sub-section (1) of section 14 of the Minimum Wages Act, Amendment
11 of 1948. 1948 (hereinafter referred to as the principal Act), the following of section 14.
proviso shall be added, namely:—

10 “Provided that where no provision exists for the determi-
nation of over-time rate, it shall be double the ordinary rate
of wages.”

3. The provisions of this Act shall be deemed to have been Retrospec-
always there since the enforcement of the Principal Act. tive effect.

STATEMENT OF OBJECTS AND REASONS

The Minimum Wages Act, 1948 has been in force since 1948, but the State Governments have not framed rules for the determination of over-time wages to the employees working over-time in the scheduled employments. This is resulting in an injustice to the employees and also it contravenes Article 29 of the Constitution wherein it is stated that no one will be forced to work without any payment and *begar* shall be treated as an offence. But in actual practice, the lack of corresponding rules for the determination of over-time wages in the States has resulted in employees working over-time without payment. It is therefore proposed to amend section 14 of the Minimum Wages Act, 1948, for the determination of over-time wages at a rate double the ordinary wages.

Hence this Bill.

K. L. BALMIKI.

NEW DELHI;
The 1st April, 1958

M. N. KAUL,
Secretary.